**Comparative Commercial Law**

## Prof. Vincenzo Cariello

***COURSE AIMS AND INTENDED LEARNING OUTCOMES***

*First part*: Theory and methods of comparison: the interpretative function of comparative law (October – December).

*Second part*: Comparative law of corporate governance (March – May).

Comparative reconstruction of the essential elements of the corporate rights of some foreign legal systems (with particular attention to: Germany, Switzerland, France, USA); identification and solutions to the main common problems, also in relation to the use of these solutions for the purposes of interpretation and application of Italian company law.

To this end, after discussing the fundamental profiles of the so-called theory of comparison, with specific functionalisation towards the "methods" of comparative commercial law and the interpretative/argumentative techniques of and in comparative law, the lecturer will identify the jurisprudential *leading cases* of four different jurisdictions (German, American, French, Swiss-Italian) and, through a comparative analysis, the lecturer will highlight convergences/divergences in the argumentative methodology of the judges of the related countries.

Objectives, frontal presentation methodology and identified teaching material are designed and organised according to learning outcomes suitable for reflecting and attesting the acquisition of critical hermeneutical methodologies, methods, techniques and approaches aimed at encouraging reflection on the divergences and convergences among the different legal systems and their use according to the interpretation of the so-called sensitive areas of domestic company law (Italian).

***COURSE CONTENT***

First part: *From comparative private law to comparative commercial law to the so-called European corporate law (methods and interpretative function of comparative commercial law and so-called European corporate law)*

– Comparative private law and comparative commercial law.

– Comparative commercial law, comparative international law, Community and international commercial law.

– Comparative commercial law methodology.

– Functions of comparative commercial law (so-called interpretative use of comparative law).

– Interpretations of and in comparative commercial law. Interpretative laws and strategies of and in comparative commercial law. Laws and strategies for interpreting so-called European corporate law.

Second part: *Comparative corporate governance*

– Management and supervision in and of companies (functions - competences - powers - responsibilities).

– Shareholder rights (participation techniques and protection techniques).

– Control and groups of companies and enterprises.

***READING LIST***

For exam preparation (attending and non-attending students):

V. Cariello, *Paradigmi e linguaggi interpretativi. Il diritto societario tra “interpretazione” e “applicazione”: saggi di ermeneutica giuridica*, Giappichelli, 2022.

It should be noted that, through listening and interaction in class, attending students will benefit from a path of explanation and “guidance” concerning the content of the textbook specified for the exam preparation.

***TEACHING METHOD***

The two parts of the course are held according to the so-called frontal lecture method, organised in such a way as to encourage students’ discussion and intervention.

With the appropriate adaptations imposed by the discipline, the course aims to make the topicality of comparative commercial law transversal through the main theories of regulatory interpretation, providing students with the techniques for the interpretative use of comparative law in corporate law.

The teaching methodology aims to replicate the general cultural approach of the courses at the *Collège de France.*

***ASSESSMENT METHOD AND CRITERIA***

Oral exam. Assessment will be based on: students’ critical acquisition of contents; their ability to relate the different parts of the course contents: presentation skills and command of language.

For *attending students,* the exam will be based on lecture notes, amongst other (but not only) which provide explanations of the “textbook”.

*Non-attending students* are required to prepare the exam on the indicated textbook.

***NOTES AND PREREQUISITES***

Due to the characteristics of the subject and the teaching approach chosen by the lecturer students’ attendance is recommended; students are also expected to have passed the Commercial Law 1 exam.

Assignment of thesis papers requires a good knowledge of at least one foreign language, previous course attendance, and an aptitude for critical thinking. Thesis work may be prepared in one of the following languages: Italian, English, German, and French. Attending a foreign university is recommended for the preparation of so-called experimental theses.

In case the current Covid-19 health emergency does not allow frontal teaching, remote teaching will be carried out following procedures that will be promptly notified to students.

Further information can be found on the lecturer's webpage at http://docenti.unicatt.it/web/searchByName.do?language=ENG or on the Faculty notice board.